

Agreement Provisions

THE LOCAL AGENCY AGREES:

- (1) To acquire in its name, or in the name of the state if on the state highway system, all right-of-way necessary for this project in accordance with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and established state policies and procedures. Prior to advertising for bids, the LA shall certify to the STATE that all requirements of Titles II and III of said Uniform Act have been satisfied. The disposition of encroachments, if any, will be cooperatively determined by representatives of the LA, and STATE and the FHWA, if required.
- (2) To provide for all utility adjustments, and to regulate the use of the right-of-way of this improvement by utilities, public and private, in accordance with the current Utility Accommodation Policy for Local Agency Highway and Street Systems.
- (3) To provide for surveys and the preparation of plans for the proposed improvement and engineering supervision during construction of the proposed improvement.
- (4) To retain jurisdiction of the completed improvement unless specified otherwise by addendum (addendum should be accompanied by a location map). If the improvement location is currently under road district jurisdiction, an addendum is required.
- (5) To maintain or cause to be maintained, in a manner satisfactory to the STATE and FHWA, the completed improvement, or that portion of the completed improvement within its jurisdiction as established by addendum referred to in item 4 above.
- (6) To comply with all applicable Executive Orders and Federal Highway Acts pursuant to the Equal Employment Opportunity and Nondiscrimination Regulations required by the U.S. Department of Transportation.
- (7) To maintain, for a minimum of 3 years after the completion of the contract, adequate books, records and supporting documents to verify the amounts, recipients and uses of all disbursements of funds passing in conjunction with the contract; the contract and all books, records and supporting documents related to the contract shall be available for review and audit by the Auditor General and the department; and the LOCAL AGENCY agrees to cooperate fully with any audit conducted by the Auditor General and the department; and to provide full access to all relevant materials. Failure to maintain the books, records and supporting documents required by this section shall establish a presumption in favor of the STATE for the recovery of any funds paid by the STATE under the contract for which adequate books, records and supporting documentation are not available to support their purported disbursement.
- (8) To provide if required, for the improvement of any railroad-highway grade crossing and rail crossing protection within the limits of the proposed improvement;
- (9) To comply with Federal requirements or possibly lose (partial or total) Federal participation as determined by the FHWA;
- (10) (STATE Contracts Only) That the method of payment designated on page one will be as follows:

Method A - Lump Sum Payment. Upon award of the contract for this improvement, the LA will pay to the STATE, in lump sum, an amount equal to 95% of the LA's estimated obligation incurred under this Agreement, and will pay to the STATE the remainder of the LA's obligation (including any nonparticipating costs) in a lump sum, upon completion of the project based upon final costs.

Method B - Monthly Payments. Upon award of the contract for this improvement, the LA will pay to the STATE, a specified amount each month for an estimated period of months, or until 95% of the LA's estimated obligation under the provisions of the Agreement has been paid, and will pay to the STATE the remainder of the LA's obligation (including any nonparticipating costs) in a lump sum, upon completion of the project based upon final costs.

Method C - Progress Payments. Upon receipt of the contractor's first and subsequent progressive bills for this improvement, the LA will pay to the STATE, an amount equal to the LA's share of the construction cost divided by the estimated total cost, multiplied by the actual payment (appropriately adjusted for nonparticipating costs) made to the contractor until the entire obligation incurred under this Agreement has been paid.
- (11) (Day Labor or Local Contracts) To provide or cause to be provided all of the initial funding, equipment, labor, material and services necessary to construct the complete project.
- (12) (Preliminary Engineering) In the event that right-of-way acquisition for, or actual construction of the project for which this preliminary engineering is undertaken with Federal participation is not started by the close of the tenth fiscal year following the fiscal year in which this agreement is executed, the LA will repay the STATE any Federal funds received under the terms of this Agreement.
- (13) (Right-of-Way Acquisition) In the event that the actual construction of the project on this right-of-way is not undertaken by the close of the twentieth fiscal year following the fiscal year in which this Agreement is executed, the LA will repay the STATE any Federal Funds received under the terms of this Agreement.

Local Agency
Danville, City of

Section
99-00209-00-PV

- (14) And certifies to the best of its knowledge and belief its officials:
- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements receiving stolen property;
 - (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, local) with commission of any of the offenses enumerated in item (b) of this certification; and
 - (d) have not within a three-year period preceding the Agreement had one or more public transactions (Federal, State, local) terminated for cause or default.
- (15) To include the certifications, listed in item 14 above and all other certifications required by State statutes, in every contract, including procurement of materials and leases of equipment.
- (16) (STATE Contracts) That execution of this agreement constitutes the LOCAL AGENCY's concurrence in the award of the construction contract to the responsible low bidder as determined by the STATE.
- (17) That for agreements exceeding \$100,000 in federal funds, execution of this Agreement constitutes the LOCAL AGENCY's certification that:
- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
 - (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress, in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
 - (c) The LOCAL AGENCY shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- (18) To regulate parking and traffic in accordance with the approved project report.
- (19) To regulate encroachments on public right-of-way in accordance with current Illinois Compiled Statutes.
- (20) To regulate the discharge of sanitary sewage into any storm water drainage system constructed with this improvement in accordance with current Illinois Compiled Statutes.

THE STATE AGREES:

- (1) To provide such guidance, assistance and supervision and to monitor and perform audits to the extent necessary to assure validity of the LA's certification of compliance with Titles II and III requirements.
- (2) (STATE Contracts) To receive bids for the construction of the proposed improvement when the plans have been approved by the STATE (and FHWA, if required) and to award a contract for construction of the proposed improvement, after receipt of a satisfactory bid.
- (3) (Day Labor) To authorize the LA to proceed with the construction of the improvement when Agreed Unit Prices are approved and to reimburse the LA for that portion of the cost payable from Federal and/or State funds based on the Agreed Unit Prices and Engineer's Payment Estimates in accordance with the Division of Cost on page one.
- (4) (LOCAL Contracts) That for agreements with Federal and/or State funds in engineering, right-of-way, utility work and/or construction work:
 - (a) To reimburse the LOCAL AGENCY for the Federal and/or State share on the basis of periodic billings, provided said billings contain sufficient cost information and show evidence of payment by the LOCAL AGENCY.
 - (b) To provide independent assurance sampling, to furnish off-site material inspection and testing at sources normally visited by STATE inspectors of steel, cement, aggregate, structural steel and other materials customarily tested by the STATE.

IT IS MUTUALLY AGREED:

- (1) That this Agreement and the covenants contained herein shall become null and void in the event that the FHWA does not approve the proposed improvement for Federal-aid participation or the contract covering the construction work contemplated herein is not awarded within three years of the date of execution of this Agreement.
- (2) This Agreement shall be binding upon the parties, their successors and assigns.
- (3) For contracts awarded by the LOCAL AGENCY, the LOCAL AGENCY shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any USDOT - assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The LOCAL AGENCY shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of USDOT - assisted contracts. The LOCAL AGENCY's DBE program, as required by 49 CFR part 26 and as approved by USDOT, is incorporated by reference in this Agreement. Upon notification to the recipient of its failure to carry out its approved program, the department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.). In the absence of a USDOT - approved LOCAL AGENCY DBE Program or on State awarded contracts, this Agreement shall be administered under the provisions of the STATE's USDOT approved Disadvantaged Business Enterprise Program.
- (4) In cases where the STATE is reimbursing the LOCAL AGENCY, obligations of the STATE shall cease immediately without penalty or further payment being required if, in any fiscal year, the Illinois General Assembly or applicable Federal Funding source fails to appropriate or otherwise make available funds for the work contemplated herein.

ADDENDA

Additional information and/or stipulations are hereby attached and identified below as being a part of this Agreement.

Number 1 Location Map

(Insert addendum numbers and titles as applicable)

The LA further agrees, as a condition of payment, that it accepts and will comply with the applicable provisions set forth in this Agreement and all addenda indicated above.

APPROVED

Name Scott Eisenhauer

Title Mayor

County Board Chairperson/Mayor/Village President/etc.

Signature Scott Eisenhauer

Date April 19, 2004

NOTE: If signature is by an APPOINTED official, a resolution authorizing said appointed official to execute this agreement is required.

Local Agency
Danville, City of

Section
99-00209-00-PV

APPROVED

State of Illinois

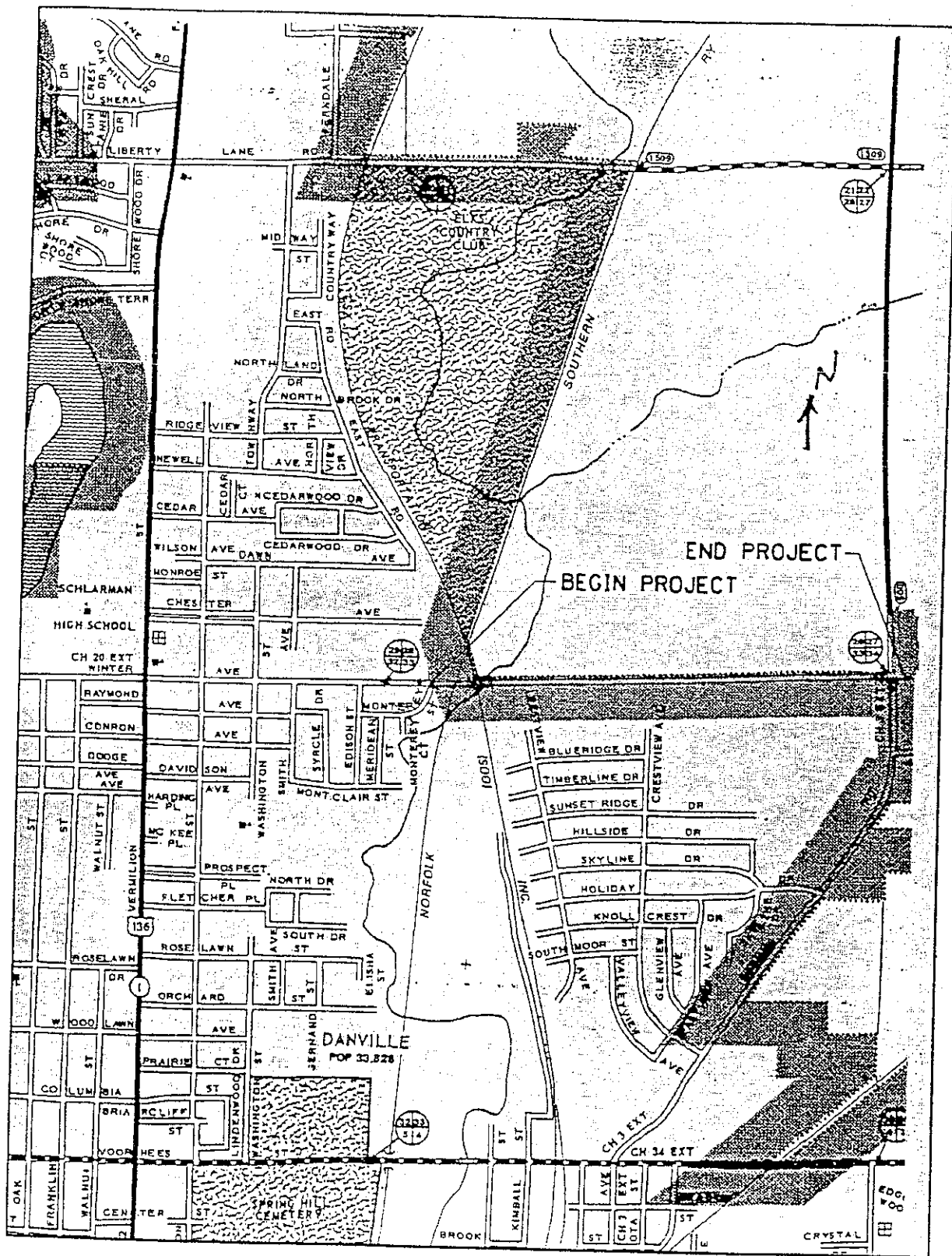
Department of Transportation

By V. A. Mada

Director of Highways

Date April 19, 2004

THE STATE OF ILLINOIS	
By the Department of Transportation	
By	<u>[Signature]</u> Secretary
By	<u>[Signature]</u> Director - Finance & Administration
By	<u>[Signature]</u> Chief Counsel



PROJECT LOCATION

WINTER AVENUE
LOCATION STUDY
DANVILLE, ILLINOIS

99S2067

EXHIBIT A



Illinois Department of Transportation

2300 South Dirksen Parkway / Springfield, Illinois / 62764

Rec 2013-20

April 19, 2004

Danville
Section 99-00209-00-PV
Project M-5016(30)
Job No. C-95-053-01

Ms. Janet K. Myers
City Clerk
17 West Main
Danville, IL 61832

Dear Ms. Myers:

The joint agreement for the subject section was executed by the department on April 19, 2004. Your copy of the executed agreement is attached.

Sincerely,

Charles J. Ingersoll, P.E.
Engineer of Local Roads and Streets

Larry D Houser

By: Larry D. Houser
Local Project Implementation Engineer

cc-
Cameron Alden, Acting, Municipal Engineer
David Clark Attn: David Speicher
Gus Sogunro Attn: Clarence Crowder
Chuck Schmitt
Roger Driskell Attn: Sunday Odele

file

RESOLUTION NO. 2003-110

A Resolution Authorizing an Agreement Regarding
Professional Services for Winter Avenue ROW Acquisition

WHEREAS, the City of Danville has determined the need for
improving Winter Avenue which will involve ROW issues; and

WHEREAS, Federal regulations must be followed regarding
ROW acquisition in order to utilize federal funds for
construction;

WHEREAS, John Smith and Chuck McDaniel have extensive
experience regarding these regulations and have submitted a
proposal to perform negotiating tasks for the ROW Acquisition for
the Winter Avenue Project at \$800 per parcel.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the
City of Danville, Illinois, that:

1. The City of Danville accept the proposal for
professional services from John R. Smith and Chuck E.
McDaniel and the Mayor is authorized to perform any
tasks necessary to accomplish this work.
2. This work will be funded by the \$600,000 Illinois First
Grant, or previously allocated MFT dollars should the
grant funds still be frozen at the time of the work
performed.
3. This Resolution shall take effect upon its passage and
publication in pamphlet form.

PASSED THIS 16th DAY OF December, 2003.

AYES 13 NAYS 0 ABSENT 1

APPROVED:

BY: *Scott Eisenhauer*
MAYOR

ATTEST:

BY: *Donna K. Meyer*
CITY CLERK

99-00209-00 *ee* PV

RESOLUTION NO. 2004-5

A RESOLUTION AUTHORIZING AN INTER-GOVERNMENTAL AGREEMENT

WHEREAS, the City of Danville intends to reconstruct a significant portion of Winter Avenue; and

WHEREAS, the City has Contracted with URS Corporation for professional engineering services to design and prepare plans and specifications for the proposed improvements to Winter Avenue; and

WHEREAS, said plans include a joint use path to be constructed along the roadway; and

WHEREAS, the City desires to enter into an Inter-Governmental Agreement with Danville School District #118 to construct the path on property owned by the District and leased by the City for park use.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Danville that:

1. The attached Inter-Governmental Agreement be approved.
2. The Mayor and City Clerk be authorized to execute all documents.
3. This Resolution shall take effect upon it's passage and publication.

PASSED THIS 20th DAY OF January, 2004

AYES 13 NAYS 0 ABSENT 1

APPROVED:

BY: Scott Eisenhauer
MAYOR

ATTEST:

BY: Debra K. Nye
City Clerk

POSTED
PUBLICLY

JAN 26

**JOINT USE PATH EASEMENT GRANT AND
INTERGOVERNMENTAL AGREEMENT**

THIS AGREEMENT is made this 14th day of JANUARY, 2004 between
DANVILLE COMMUNITY CONSOLIDATED SCHOOL DISTRICT #118 ("District"), and the
CITY OF DANVILLE, Illinois ("City"),

WITNESSETH:

WHEREAS, the parties are units of local government under the laws of the State of Illinois;
and,

WHEREAS, District is the owner of certain real estate situated on the South side of Winter
Avenue; and,

WHEREAS, City has undertaken a project to reconstruct and improve Winter Avenue and
to provide a joint use path for pedestrians and bicycle riders along the South side of Winter Avenue;
and,

WHEREAS, District desires to encourage such improvements;

NOW, THEREFORE, in consideration of the premises, the parties agree as follows:

NANCY J. KELLEY, RECORDER, VERMILION COUNTY, IL

1. **Grant of Easement.** District hereby grants and conveys to City for use of the public as a joint use path for pedestrians and bicyclists, a permanent easement over upon and across the real estate legally described on Exhibit "A" attached hereto and incorporated by reference herein ("the Easement Parcel").

2. **Construction and Maintenance of Joint Use Path.** City agrees to construct and maintain a joint use path in the Easement Parcel, according to such plans and specifications as City shall develop and approve, subject to City's ability to fund such construction and maintenance.

3. **Indemnity.** City hereby covenants and agrees to save, defend, indemnify and hold harmless District and its trustees, officers and agents from and against any claim, cause of action, expense (including without limitation attorney's fees), liability and judgment which may be asserted against District in connection with or arising from any injury to person or property in the Easement Parcel. The parties agree that the joint use path is a recreational facility for the use and benefit of the public.

IN WITNESS WHEREOF, District has executed and delivered this instrument and City has executed and accepted the same as of the day and year above written.

CITY:

CITY OF DANVILLE,

By: [Signature]
Mayor

ATTEST:

By: [Signature]
City Clerk
Rec 2004-5

DISTRICT:

DANVILLE COMMUNITY
CONSOLIDATED SCHOOL DISTRICT #118,

By: [Signature]
Its: PRESIDENT
BOARD OF EDUCATION

ATTEST:

By: [Signature]
Its: SECRETARY
BOARD OF EDUCATION

STATE OF ILLINOIS)
) SS.
COUNTY OF VERMILION)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that SCOTT EISENHAUER and JANET K. MYERS, who are personally known to me to be the Mayor and City Clerk, respectively, of the City of Danville, a corporation, appeared before me this day in person and acknowledged that they, being thereunto duly authorized, signed said instrument, fixed the corporate seal thereto, and delivered said instrument as the voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal this 20th day of JANUARY, 2004.

John P. Wolgamot
Notary Public

"OFFICIAL SEAL"
JOHN P. WOLGAMOT
NOTARY PUBLIC
STATE OF ILLINOIS
MY COMMISSION EXPIRES 5-26-2005

STATE OF ILLINOIS)
) SS.
COUNTY OF VERMILION)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that DAVID GROVES and MARTHA SEE, who are personally known to me to be the PRESIDENT and SECRETARY, respectively, of the Danville Community Consolidated School District #118, a corporation, appeared before me this day in person and acknowledged that they, being thereunto duly authorized, signed said instrument, fixed the corporate seal thereto, and delivered said instrument as the voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal this 14th day of JANUARY, 2004.

Kristine Guidry
Notary Public

"OFFICIAL SEAL"
KRISTINE GUIDRY
NOTARY PUBLIC
STATE OF ILLINOIS
MY COMMISSION EXPIRES 12-30-2006

EXHIBIT "A"

A part of the East Half of the East Half of the Northwest Quarter of the Northeast Quarter of Section 33, Township 20 North, Range 11 West, of the Second Principal Meridian, Vermilion County, Illinois, more particularly described as follows; Commencing at an Iron pin found at the Northwest corner of the Northeast Quarter of said Section 33, said point being the Northwest corner of the Grantor; thence South 0 degrees 31 minutes 26 seconds East a distance of 20.03 feet along the West line of the Northwest Quarter of the Northeast Quarter of said Section 33, also being the West line of the Grantor, to a point on the existing South Right of Way line of Winter Avenue, said point being the Point of Beginning of the hereinafter described parcel; thence North 86 degrees 23 minutes 53 seconds East a distance of 1991.53 feet, along the existing South Right of Way line of Winter Avenue, to a point on the East line of the Grantor; thence South 0 degrees 31 minutes 26 seconds East a distance of 30.04 feet, along said East line of the Grantor to a point; thence South 86 degrees 23 minutes 53 seconds West a distance of 107.39 feet to a point; thence North 3 degrees 36 minutes 07 seconds West a distance of 15.89 feet to a point; thence South 87 degrees 28 minutes 58 seconds West a distance of 115.16 feet to a point; thence South 3 degrees 36 minutes 07 seconds East a distance of 23.07 feet to a point; thence South 86 degrees 23 minutes 53 seconds West a distance of 143.98 feet to a point; thence South 3 degrees 36 minutes 07 seconds East a distance of 270.00 feet to a point; thence South 86 degrees 23 minutes 53 seconds West a distance of 65.00 feet to a point; thence North 3 degrees 36 minutes 07 seconds West a distance of 260.00 feet to a point; thence South 86 degrees 23 minutes 53 seconds West a distance of 740.00 feet to a point; thence South 3 degrees 36 minutes 07 seconds East a distance of 5.00 feet to a point; thence South 86 degrees 23 minutes 53 seconds West a distance of 445.00 feet to a point; thence South 3 degrees 36 minutes 07 seconds East a distance of 25.00 feet to a point; thence South 86 degrees 23 minutes 53 seconds East a distance of 65.00 feet to a point; thence North 3 degrees 36 minutes 07 seconds West a distance of 35.00 feet to a point; thence South 86 degrees 23 minutes 53 seconds West a distance of 215.00 feet to a point; thence North 3 degrees 36 minutes 07 seconds West a distance of 5.00 feet to a point; thence South 86 degrees 23 minutes 53 seconds West a distance of 95.29 feet to a point on the West line of the Grantor; thence North 0 degrees 31 minutes 26 seconds West a distance of 35.05 feet along the West line of the Grantor to the Point of Beginning.

MFT *fil*

RESOLUTION NO. 2004-9

Resolution Authorizing Illinois Power Gas Main
Relocation on Winter Avenue

WHEREAS, the City of Danville has determined the need to improve Winter Avenue for Monterey Street to the eastern City Limits and has hired URS to design the improvements; and

WHEREAS, the desired improvements conflict with existing utilities currently on private easements; and

WHEREAS, the City is responsible for relocating such utilities, estimated at \$326,497.00 for gas main relocations and wishes to proceed with the roadway improvements.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Danville, Illinois, that:

1. The Mayor & Comptroller are authorized to perform all duties necessary to initiate and execute the desired work to be done by Illinois Power.
2. This work estimated at \$326,497.00, will be paid for from MFT funds already set aside in section number 99-00209-00-PV.
3. This Resolution shall take effect upon its passage and publication in pamphlet form.

PASSED THIS 17th DAY OF February, 2004.

AYES 12 NAYS 1 ABSENT 1
APPROVED:

BY: Scott Eisenhauer
MAYOR

ATTEST:

By: Janet K. Meyer
CITY CLERK

MFT

RESOLUTION NO. 2004-10

Resolution Authorizing Engineering Agreement with
CSX Railroad for Winter Avenue

WHEREAS, the City of Danville has determined the need to improve Winter Avenue from Monterey Street to the eastern City Limits and has hired URS to design the improvements; and

WHEREAS, the Winter Avenue improvements include an underpass below CSX railroad tracks; and

WHEREAS, the City of Danville, as the requesting agency, is responsible for the cost of this review; and

WHEREAS, the City of Danville wishes to proceed with the desired improvements.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Danville, Illinois, that:

1. The Mayor is authorized to perform all duties needed to enter into an agreement for engineering services by CSX to review and approve the desired improvements.
2. The Comptroller is authorized to make all payments necessary under the agreement.
3. The funds for this work will be paid for from MFT funds already set aside in section number 99-00209-00-PV.
4. This Resolution shall take effect upon its passage and publication in pamphlet form.

PASSED THIS 17th DAY OF February, 2004.

AYES 12 NAYS 1 ABSENT 1

APPROVED:

BY: Scott Eisenhauer
MAYOR

ATTEST:

BY: [Signature]
CITY CLERK

BRIDGE REPLACEMENT PROJECT

CSXT over Winter Avenue
Danville, Vermilion County, Illinois
Railroad Milepost 0ZA-121.63

CSXT OP# _____

PRELIMINARY ENGINEERING AGREEMENT

This Preliminary Engineering Agreement ("Agreement") is made as of _____, 200__, by and between CSX TRANSPORTATION, INC., a Virginia corporation with its principal place of business in Jacksonville, Florida ("CSXT"), and the City of Danville, a body corporate and political subdivision of the State of Illinois ("Agency").

EXPLANATORY STATEMENT

1. Agency wishes to facilitate the development of the proposed replacement of the existing structure which carries CSXT over Winter Avenue at railroad milepost 0ZA-121.63 in Danville, Vermilion County, Illinois (the "Project").
2. Agency has requested that CSXT proceed with certain necessary engineering and/or design services for the Project to facilitate the parties' consideration of the Project.
3. Subject to the approval of CSXT, which approval may be withheld for any reason, the Project is to be constructed, if at all, at no cost to CSXT, under a separate construction agreement to be executed by the parties at a future date.

NOW, THEREFORE, for and in consideration of the foregoing Explanatory Statement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

1. Scope of Work

1.1 Generally. The work to be done by CSXT under this Agreement shall consist of: (1) the preparation or review and approval of preliminary and final engineering and design plans, specifications, drawings and other documents pertaining to the Project, (2) the preparation of cost estimates for CSXT's work in connection with the Project, and (3) the review of construction cost estimates, site surveys, assessments, studies and related construction documents submitted to CSXT by Agency for the Project ("Engineering Work"). Engineering Work may also include: (1) office reviews, (2) field reviews, (3) attendance at hearings and meetings, and (4) preparation of correspondence, reports, and other documentation in connection with the Project. Nothing contained in this Agreement shall oblige CSXT to perform work which, in CSXT's opinion, is not relevant to CSXT's participation in the Project.

1.2 Effect of CSXT Approval or Preparation of Documents. By its review, approval or preparation of plans, specifications, drawings or other documents pursuant to this Agreement (collectively, the "Plans"), CSXT signifies only that the Plans and improvements constructed in accordance with the Plans satisfy CSXT's requirements. CSXT expressly disclaims all other representations and warranties in connection with the Plans, including, but not limited to, the integrity, suitability or fitness for the purposes of Agency or any other persons of such Plans or improvements constructed in accordance with the Plans.

2. Reimbursement of CSXT Expenses

2.1 Reimbursable Expenses. Agency shall reimburse CSXT for all costs and expenses incurred by CSXT in connection with the Engineering Work, including, without limitation: (1) all out of pocket expenses, (2) travel and lodging expenses, (3) telephone, facsimile, and mailing expenses, (4) costs for equipment, tools, materials and supplies, (5) sums paid to consultants and subcontractors by CSXT, and (6) CSXT labor, together with CSXT labor overhead percentages established by CSXT pursuant to applicable law (collectively, "Reimbursable Expenses").

2.2 Estimate. CSXT has estimated the total Reimbursable Expenses for the Project to be approximately \$25,000.00 (the "Estimate" as amended or revised). In the event CSXT anticipates that actual Reimbursable Expenses may exceed such Estimate, it shall provide Agency with the revised Estimate of total Reimbursable Expenses for Agency's approval and confirmation that sufficient funds have been appropriated to cover the total Reimbursable Expenses as reflected in the revised Estimate. CSXT may elect, by delivery of notice to Agency, to immediately cease all further Engineering Work, unless and until Agency provides such approval and confirmation.

2.3 Payment Terms.

2.3.1 Agency shall pay CSXT for Reimbursable Expenses in the amounts and on the dates set forth in the Payment Schedule attached to this Agreement as Exhibit A (the "Payment Schedule," as revised from time to time pursuant to Section 2.2). CSXT agrees to submit invoices to Agency for Reimbursable Expenses. Agency shall remit payment to CSXT within thirty (30) days following delivery to Agency of each such invoice or, if later, the payment date (if any) set forth in the Payment Schedule.

2.3.2 Following completion of all Engineering Work, CSXT shall submit to Agency a final invoice that reconciles the total Reimbursable Expenses incurred by CSXT against the total payments received from Agency. Agency shall pay to CSXT the amount by which actual Reimbursable Expenses exceed total payments, as shown by the final invoice, within thirty (30) days following delivery to Agency of the final invoice.

2.3.3 In the event that Agency fails to pay CSXT any sums due CSXT under this Agreement: (i) Agency shall pay CSXT interest at the lesser of 1.0% per month or the maximum rate of interest permitted by applicable law on the delinquent amount until paid in full; and (ii) CSXT may elect, by delivery of notice to Agency: (A) to immediately cease all further work on the Project, unless and until Agency pays the entire delinquent sum, together with accrued interest; and/or (B) to terminate this Agreement.

2.3.4 All invoices from CSXT shall be delivered to Agency in accordance with Section 6 of this Agreement. All payments by Agency to CSXT shall be made by certified check and mailed to the following address or such other address as designated by CSXT's notice to Agency:

CSX Transportation, Inc.
P.O. Box 116651
Atlanta, GA 30368-6651

2.4 Effect of Termination. Agency's obligation to pay CSXT Reimbursable Expenses in accordance with this Section shall survive termination of this Agreement for any reason.

3. Appropriations. Agency represents to CSXT that: (i) Agency has obtained appropriations sufficient to reimburse CSXT for the Reimbursable Expenses encompassed by the initial Estimate; (ii) Agency

shall use its best efforts to obtain appropriations necessary to cover Reimbursable Expenses encompassed by subsequent Estimates approved by Agency; and (iii) Agency shall promptly notify CSXT in the event that Agency is unable to obtain such additional appropriations.

4. Termination.

4.1 By Agency. Agency may terminate this Agreement, for any reason, by delivery of notice to CSXT. Such termination shall become effective upon the expiration of fifteen (15) calendar days following delivery of notice to CSXT or such later date designated by the notice.

4.2 By CSXT. CSXT may terminate this Agreement as provided pursuant to Section 2.3.3.

4.3 Consequences of Termination. If the Agreement is terminated by either party pursuant to this Section or any other provision of this Agreement, the parties understand that it may be impractical for them to immediately stop the Engineering Work. Accordingly, they agree that, in such instance a party may continue to perform Engineering Work until it has reached a point where it may reasonably and safely suspend the Engineering Work. Agency shall reimburse CSXT pursuant to this Agreement for the Engineering Work performed, plus all costs reasonably incurred by CSXT to discontinue the Engineering Work and all other costs of CSXT incurred as a result of the Project up to the time of full suspension of the Engineering Work. Termination of this Agreement or Engineering Work on the Project, for any reason, shall not diminish or reduce Agency's obligation to pay CSXT for Reimbursable Expenses incurred in accordance with this Agreement. In the event of the termination of this Agreement or the Engineering Work for any reason, CSXT's only remaining obligation to Agency shall be to refund to Agency payments made to CSXT in excess of Reimbursable Expenses in accordance with Section 2.

5. Subcontracts. CSXT shall be permitted to engage consultants and subcontractors to perform all or any portion of the Engineering Work.

6. Notices. All notices, consents and approvals required or permitted by this Agreement shall be in writing and shall be deemed delivered upon personal delivery, upon the expiration of three (3) days following mailing by first class U.S. mail, or upon the next business day following mailing by a nationally recognized overnight carrier, to the parties at the addresses set forth below, or such other addresses as either party may designate by delivery of prior notice to the other party:

If to CSXT:

CSX Transportation, Inc.
Liberty Business Park
4901 Belfort Road, Suite 130
Jacksonville, Florida 32256
Attention: Principal Engineer
Paul C. Carine

If to Agency:

City of Danville
17 West Main Street
Danville, Illinois 61832
Attention: City Engineer
Cameron Alden

7. Project Construction. Nothing contained in this Agreement shall be deemed to constitute CSXT's approval of or consent to the construction of the Project.

8. Entire Agreement. This Agreement embodies the entire understanding of the parties, may not be waived or modified except in a writing signed by authorized representatives of both parties, and supersedes all prior or contemporaneous written or oral understandings, agreements or negotiations regarding its subject matter. In the event of any inconsistency between this Agreement and the Exhibits, the more specific terms of the Exhibits shall be deemed controlling.
9. Waiver. If either party fails to enforce its respective rights under this Agreement, or fails to insist upon the performance of the other party's obligations hereunder, such failure shall not be construed as a permanent waiver of any rights or obligations in this Agreement.
10. Assignment. CSXT may assign this Agreement and all rights and obligations herein to a successor in interest, parent company, affiliate, or future affiliate. Upon assignment of this Agreement by CSXT and the assumption by CSXT's assignee of CSXT's obligations under this Agreement, CSXT shall have no further obligations under this Agreement. Agency shall not assign its rights or obligations under this Agreement without CSXT's prior written consent, which consent may be withheld for any reason.
11. Applicable Law. This Agreement shall be governed by the laws of the State of Illinois, exclusive of its choice of law rules. The parties further agree that the venue of all legal and equitable proceedings related to disputes under this Agreement shall be situated in Duval County, Florida, and the parties agree to submit to the personal jurisdiction of any State or Federal court situated in Duval County, Florida.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate, each by its duly authorized officers, as of the date of this Agreement.

CITY OF DANVILLE, ILLINOIS

By: Scott Eisenhauer
Print Name: SCOTT EISENHAUER
Title: Mayor

CSX TRANSPORTATION, INC.

By: _____
Print Name: _____
Title: _____

EXHIBIT A

PAYMENT SCHEDULE

Advance Payment in Full

Upon execution and delivery of this Agreement by Agency, Agency will deposit with CSXT a sum equal to the Reimbursable Expenses, as shown by the Estimate. If CSXT anticipates that it may incur Reimbursable Expenses in excess of the deposited amount, CSXT will request an additional deposit equal to the then remaining Reimbursable Expenses which CSXT estimates that it will incur. CSXT shall request such additional deposit by delivery of invoices to Agency. Agency shall make such additional deposit within 30 days following delivery of such invoice to Agency.

VCORN130431.9

RESOLUTION NO. 2005-20

A RESOLUTION APPROVING PROFESSIONAL SERVICES

WHEREAS, the city of Danville has initiated the planning and reconstruction of Winter Avenue from Monterey east to the city limits; and

WHEREAS, through Resolution NO. 2002-57, the City Council of the City of Danville approved an agreement for professional services with URS Corp. of Decatur, IL for Phase II Design of the Winter Avenue Reconstruction Project; and

WHEREAS, the amount of \$761,000 was approved for said professional services to perform all work as indicated within the scope of services then defined ; and

WHEREAS, subsequent to said Agreement, there have been several items requiring URS to provide additional services beyond the scope of services as defined in the agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Danville that:

1. The Agreement between the City of Danville and URS Corp. be increased \$82,776.75 for the provision of additional services as requested by City .
2. Purchase Order #1160 be amended to a total amount of \$844,776.75.
3. The Mayor and City Clerk be authorized to execute all contract documents.
4. This Resolution shall take effect upon it's passage and publication.

PASSED THIS 15th DAY OF February, 2005

AYES 12 NAYS 1 ABSENT 1

APPROVED:

BY: Scott Eisenbauer
MAYOR

ATTEST:

BY: Smith K. Myers
CITY CLERK

City of Danville
Winter Avenue Reconstruction

Out of Scope Work Items

Item	Description	Additional Fee
1	Design and Plan Preparation of Shared-Use Path	\$10,566.54
2	Soccer Field Entrance Modification	\$4,927.15
3	Bridge Soil Boring Extension	\$2,841.00
4	Addendum to Environmental Survey Request (ESR) and Project Report	\$11,306.12
5	East End Project Extension	\$14,080.86
6	Shared-Use Path Redesign at Tennis Courts	\$1,605.17
7	Construction Cost Estimate Calculations for Funding Submittals	\$4,269.39
8	Retaining Wall for Cross-Country Track	\$3,114.39
9	Separate Plan Sets for Phase 1 and Phase 2 Construction	\$30,066.13
	Total	\$82,776.75

Item 5 – East End Project Extension

During the drainage analysis and design, it was determined that a drainage problem existed at the east end of the project within the City limits. It was determined that in order to best solve the problem, a culvert would need to be added and the roadway design would need to be re-worked from the intersection with Bowman Avenue and extended some distance beyond the original project limits.

The additional fee shown includes costs for the design and analysis of the culvert and that portion of the roadway that extends beyond the original project limits. This work included the revisions to the roadway and drainage designs and to the plans as a result of raising the road over the top of the culvert.

Item 6 – Shared-Use Path Redesign at Tennis Courts

During Phase I construction, the City decided to remove the tennis courts adjacent to the shared-use path. URS was asked to redesign the alignment of the path in this area and increase the width since the tennis courts would no longer restrict the width of the path.

Item 7 – Construction Cost Estimate Calculations for Funding Submittals

On three occasions, the City requested that URS submit an up-to-date cost estimate for submittal for federal funds or other special funds. These requests required a quick turn-around in order to make the submittal deadline. When these requests were made, URS staff had to stop work and estimate quantities based on the level of design that had been completed to date. Contingencies were included for quantities that were not yet finalized. Unit costs were then developed for the estimated quantities in order to provide the requested cost estimate.

The first request was for the cost of Phase II construction. The second request was for the cost to construct that portion of the project located east of the Phase I construction. This effort required a breakout of only those quantities that existed in the portion of the project in question. The third request was in response to the need to re-submit all federal projects and the quantities and costs had to be determined for the portion of the project to be constructed in phase 2.

Item 8 - Design and Plan Preparation for Retaining Wall at Cross Country Track

URS has been asked to add a retaining wall adjacent to the softball diamonds in order to provide room for a cross-country track between the fence of the softball diamond and the roadway.

Item 9 – Additional Plan Set for Phase 2 Construction Project

The original scope was based on preparing one set of construction plans. Due to funding issues, it appears that the project will be constructed in at least two phases. URS originally submitted preliminary plans to IDOT for the entire project. The decision was then made to build a middle portion of the project in the first phase. URS prepared plans and specifications for that section of the project. URS is now in the process of preparing a set of construction documents for the second

MFT file

RESOLUTION NO. 2005-133

A Resolution Appropriating MFT Funds for
Phase II Engineering for Winter Avenue Reconstruction

WHEREAS, the City of Danville has determined the need to reconstruct Winter Avenue including:

1. Replacing the CSX bridge over Winter Avenue.
2. Replacing the bridge carrying Winter Avenue over Stoney Creek.
3. Reconstructing and widening Winter Avenue from Monterey Street to Bowman Avenue.
4. Reconstructing the intersection of Bowman Avenue and Winter Avenue and signalizing the intersection; and

WHEREAS, the City of Danville has entered into a contract with URS Corporation to perform the necessary Phase II Engineering for the Winter Avenue Reconstruction Project for an original amount of \$761,000.00; and

WHEREAS, the City of Danville has subsequently requested URS to separate the engineering documents into three construction document sets and to perform other services outside the scope of the original contract; and

WHEREAS, the City wishes to use MFT funds to pay for the additional engineering effort;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Danville, Illinois, that:

1. Additional MFT Funds in the amount of \$139,000.00 be appropriated for engineering of the Winter Avenue Reconstruction Project, Section #99-00209-00-EG.
2. The Mayor is authorized to perform any duties needed to accomplish this.
3. This Resolution shall take effect upon its passage and publication in pamphlet form.

PASSED THIS 20th DAY OF DECEMBER, 2005 BY 13 Ayes,
0 NAYS 1 ABSENT

APPROVED:

ATTEST:

BY: 
MAYOR

BY: 
CITY CLERK

POSTED
PUBLICLY DEC 29 2005



Illinois Department of Transportation

Office of the Secretary
2300 South Dirksen Parkway / Springfield, Illinois / 62764
Telephone 217/782-5597

MAY 13 2004

SUBJECT: Item No. 117
Contract No. 91239
Vermilion County
Section 99-00209-00-PV
Project ACM-5016(30)
FAU Route 6998
District 5

Beniach Construction Co., Inc.
306 B E. Southline Rd.
P.O. Box 20
Tuscola, IL 61953

Gentlemen:


At the letting held by the Illinois Department of Transportation in Springfield on April 23, 2004 your bid in the amount of \$1,448,932.01 was the low bid submitted on the above designated section.

You are hereby awarded the contract for this work at your bid price. Contract and bond forms will be sent to you under separate cover.

Your attention is called to Illinois Administrative Code, Part 660, Section 660.300, which provides that the Contract shall be executed by the successful bidder and returned together with the Contract Bond within 15 days after the contract has been mailed to the bidder.

Before starting any work, please arrange to discuss your plans for prosecuting this work with Mr. David Clark, 13473 IL Hwy 133, P. O. Box 610, Paris, Illinois 61944, or telephone (217) 465-4181. No work may be started on this section until the contract has been executed by the Illinois Department of Transportation.

Sincerely,


Timothy W. Martin
Secretary

cc-
David Clark Attn: David Speicher
Janet K. Myers, City Clerk
Cameron Alden, Acting Municipal Engineer